

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

THOMAS ALAN SCHRAM,

Defendant-Appellant.

UNPUBLISHED

August 5, 2004

No. 248103

Emmet Circuit Court

LC No. 01-001711-FC

Before: Jansen, P.J., and Meter and Cooper, JJ.

PER CURIAM.

Defendant Thomas Alan Schram appeals as of right his jury trial convictions for first-degree¹ and second-degree criminal sexual conduct (CSC).² Defendant was sentenced to ten to twenty-two years' imprisonment for his first-degree CSC conviction and seventy-one months to fifteen years' imprisonment for his second-degree CSC conviction. We affirm.

I. Facts

Defendant worked as a nurse at Lockwood Hospital in the mental health unit. The unit is a locked-down inpatient facility. In January of 1999, Debra Taylor, a registered nurse, was admitted to the unit for one week due to depression and withdrawal symptoms from prescription pain medication following a hysterectomy. One of Ms. Taylor's symptoms was a loss of interest in sexual activity. Defendant was one of three nurses assigned to Ms. Taylor during her stay. Defendant was also recovering from addiction and he and Ms. Taylor discussed her family problems, the possible loss of her nursing license, and recovery from addiction. Ten days after her release, Ms. Taylor voluntarily recommitted herself as her symptoms continued.

Ms. Taylor's second inpatient stay at Lockwood lasted twenty-one days. Ms. Taylor testified that during this visit, defendant made several inappropriate remarks to her and that his behavior made her uncomfortable. According to Ms. Taylor, defendant first accosted her in the facility's television room. Defendant beckoned Ms. Taylor into the room where he grabbed,

¹ MCL 750.520b(1)(h)(ii) (mentally incapable victim).

² MCL 750.520c(1)(h)(ii) (mentally incapable victim).

embraced and kissed her. Ms. Taylor pushed defendant away and asked him, “Aren’t you afraid of getting caught?”³ Another male nurse was at the nurse’s desk at the time, but Ms. Taylor, suspecting that the two were in collusion, did not tell him of the incident. A couple of days later, defendant was more aggressive toward Ms. Taylor in her private bathroom. Defendant fondled Ms. Taylor’s breasts and digitally penetrated her. Defendant also forced Ms. Taylor to touch his penis. Ms. Taylor pulled defendant’s hands off her body, pushed him away, and told him to go home.

Ms. Taylor did not report the incidents for almost a year, claiming that neither she nor her husband could handle the pressure. She attended outpatient sessions, along with defendant, for healthcare professionals recovering from addiction. Ms. Taylor first told George Vandell, a counselor for the group, of defendant’s behavior when Mr. Vandell used defendant as an example of someone who successfully completed the outpatient drug treatment program. In addition to Ms. Taylor’s testimony, the prosecution presented the testimony of two other female former patients as similar act witnesses.⁴ The witnesses testified to other alleged assaults perpetrated by defendant in the Lockwood Mental Health Unit.

II. Sufficiency of the Evidence

Defendant asserts that the prosecution failed to present sufficient evidence to support his convictions. In sufficiency of the evidence claims, this Court reviews the evidence in the light most favorable to the prosecution and determines whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt.⁵ “[C]ircumstantial evidence and reasonable inferences arising from that evidence can constitute satisfactory proof of the elements of a crime.”⁶ Furthermore, this Court must not interfere with the jury’s role of determining issues of witness credibility.⁷

Pursuant to MCL 520b, a prosecutor must prove the following to support a charge of first-degree CSC:

- (1) A person is guilty of criminal sexual conduct in the first degree if he or she engages in sexual penetration with another person and if any of the following circumstances exist:

* * *

³ Trial Transcript, March 4, 2003, p 144.

⁴ Defendant challenged the admission of this evidence in an interlocutory appeal. This Court affirmed the trial court’s order admitting this evidence in *People v Schram*, unpublished opinion per curiam of the Court of Appeals, issued February 8, 2002 (Docket No. 235340).

⁵ *People v Hunter*, 466 Mich 1, 6; 643 NW2d 218 (2002).

⁶ *People v Lee*, 243 Mich App 163, 167-168; 622 NW2d 71 (2000).

⁷ *People v Wolfe*, 440 Mich 508, 514; 489 NW2d 748, amended 441 Mich 1201 (1992).

(h) That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following:

* * *

(ii) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.^[8]

MCL 750.520c provides for a conviction for second-degree CSC for sexual contact under the same circumstances.⁹

Defendant contends that the prosecution failed to meet its burden of proof that defendant coerced Ms. Taylor to submit to a sexual act. Specifically, defendant argues that Ms. Taylor admittedly resisted defendant's assaults, and therefore, was not coerced into submission. The statutes prohibiting criminal sexual conduct use the phrase "force or coercion" in relation to several delineated offenses. However, the subsections under which defendant was charged and convicted exclude the requirement of force. When a statute's language is clear and unambiguous, we must assume that the Legislature intended its plain meaning and enforce the statute as written.¹⁰ Therefore, we must assume that the prosecution must only prove that defendant used his authority to coerce Ms. Taylor to submit to a sexual act.

Michigan courts have repeatedly discussed the meaning of "force and coercion," but have never discussed the meaning of "coerce" as used alone in the current subsections. The dictionary definition of "coerce" includes:

1. to compel by force, intimidation, or authority, esp. without regard for individual desire or volition . . . 2. to bring about through the use of force or other forms of compulsion; exact . . . 3. to dominate and control, esp. by exploiting fear, anxiety, etc.^[11]

Coercion, therefore, can be effectuated not only by force, but also by a misuse of authority, intimidation, fear and control.

Ms. Taylor did testify that she resisted defendant's assaults. However, the prosecution presented sufficient evidence that defendant assaulted Ms. Taylor in a coercive atmosphere. Lockwood Hospital is a locked-down mental health facility. Ms. Taylor was not free to leave the hospital and avoid defendant's improper and assaultive behavior. Defendant assaulted Ms. Taylor by using his authority to exploit her confinement and emotional vulnerability.

⁸ MCL 750.520b(1)(h)(ii).

⁹ MCL 750.520c(1)(h)(ii); *People v Vandervliet*, 444 Mich 52, 76 n 32; 508 NW2d 114 (1993), amended 445 Mich 1205 (1994).

¹⁰ *Roberts v Mecosta Co Gen Hosp*, 466 Mich 57, 63; 642 NW2d 663 (2002).

¹¹ Random House Webster's Unabridged Dictionary (2d ed).

Accordingly, we find that the prosecution presented sufficient evidence to support defendant's conviction.

Affirmed.

/s/ Kathleen Jansen
/s/ Patrick M. Meter
/s/ Jessica R. Cooper